

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, v. GLENN KUSHER and VIRGINIA KUSHNER, Defendants.	Case No. 22-cv-4569
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COMPLAINT

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment certain unpaid federal tax liabilities owed by Glenn Kushner and Virginia Kushner. For its complaint, the United States alleges as follows:

JURISDICTION AND PARTIES

1. The district court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1340, and 1345, and 26 U.S.C. § 7402.
2. The defendant Glenn Kushner resides in Suffolk County, New York, within the jurisdiction of this Court.
3. The defendant Virginia Kushner resides in Suffolk County, New York, within the jurisdiction of this Court.

COUNT ONE
Claim Against Glenn Kushner and Virginia Kushner to Reduce
Certain Joint Income Tax Liabilities to Judgment

4. A delegate of the Secretary of the Treasury made joint assessments against Glenn Kushner and Virginia Kushner for income taxes and penalties for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of August 1, 2022, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, after applying any abatements, payments, and credits, as follows:

Tax Period Ending	Assessment Date	Amount Assessed	Balance Due as of August 1, 2022
12/31/2009	03/12/2012	\$19,492.00	\$26,490.34
12/31/2011	04/17/2017	\$33,032.00	\$36,452.43
12/31/2012	03/06/2017	\$25,821.00	\$24,049.34
12/31/2013	11/21/2016	\$32,858.00	\$31,215.14
12/31/2014	10/19/2015	\$33,335.00	\$33,239.24
12/31/2015	2/20/2017	\$23,585.00	\$19,737.23
12/31/2016	6/5/2017	\$27,919.00	\$22,558.51
12/31/2017	7/16/2018	\$28,239.00	\$16,061.18
		Total:	\$241,508.71

5. Notice of the liabilities described in paragraph 4 was given to, and payment demanded from, Glenn Kushner and Virginia Kushner.

6. Despite proper notice and demand, Glenn Kushner and Virginia Kushner failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements,

payments, and credits, they remain liable, jointly and severally, to the United States in the amount of \$241,509.80, plus statutory additions accruing from and after August 1, 2022.

7. The United States and defendants Glenn Kushner and Virginia Kushner, in connection with their bankruptcy case, number 8:13-bk-72785, in the United States Bankruptcy Court for the Eastern District of New York, entered into a Settlement Agreement to resolve their disputes regarding the Kushners' federal income tax liabilities for tax years 2004, 2005, 2006, 2008, 2009, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 (the "Tax Liabilities"). The Kushners agreed and stipulated that the exception to bankruptcy discharge contained within 11 U.S.C. § 523(a)(1)(C) applied to the Tax Liabilities and that the income taxes and interest thereon are excepted from bankruptcy discharge. In relevant part, the Kushners agreed to file tax returns, stay current on their tax liabilities, and make installment payments of \$3,206.19 per month for a term of 84 months to amortize \$226,843.94 at 5% per annum compounded monthly in satisfaction of the Tax Liabilities.

8. Paragraph 11 of the Settlement Agreement states that, upon default of the installment payment obligation or failure to timely file all required federal tax returns and pay all applicable federal individual and corporate taxes, the United States is statutorily entitled to the immediate entry of a judgment for the Federal Tax Liabilities in the amount of the actual tax liabilities, including penalties, plus interest and other statutory accruals, less the installment payments received by the IRS. The Settlement Agreement permits the United States to obtain a judgment upon default "by filing a complaint in the United States District Court for the Eastern District of New York, supported by a copy of the [] Settlement Agreement, the proposed judgment, and a declaration pursuant to 28 U.S.C. § 1746 specifying the default." Under the

Settlement Agreement, the Court may enter the judgment *ex parte*, subject only to a motion to vacate upon proof that there was no default.

9. The Kushners defaulted on their obligations under multiple provisions of the settlement agreement. Accordingly, the United States will file a motion for entry of judgment following the filing of this complaint. The United States will serve this complaint and the subsequent motion for entry of judgment upon the defendants in accordance with the provisions of Federal Rule of Civil Procedure 4.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Glenn Kushner and the defendant Virginia Kushner, jointly and severally, for income tax liabilities for the periods ending December 31, 2006, December 31, 2009, December 31, 2011, December 31, 2012, December 31, 2013, December 31, 2014, December 31, 2015, December 31, 2016, and December 31, 2017, in the amount of \$241,508.71, plus statutory additions and interest accruing from and after July 21, 2022, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c); and,

B. The United States of America shall recover its costs and be awarded such other and further relief as the Court determines is just and proper.

Respectfully submitted,
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